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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,479	03/01/2004	Darrell Reginald May	85002	9515

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/790,479	MAY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sharad Rampuria	2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

I. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

II. The current office-action is in response to the amendment/arguments filed on 2/14/06.

Accordingly, Claims 8, 15 are cancelled and Claims 1-7, 9-14 and 16-23 are pending for further examination as follows:

#### ***Terminal Disclaimer***

III. The terminal disclaimer filed on 2/14/06 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of 10/790641 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### **Information Disclosure Statement**

IV. The Information Disclosure statement (IDS) submitted is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements.

#### ***Claim Rejections - 35 USC § 103***

V. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

VI. Claims 1-7, 9-14 and 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakayori et al. [US 20030218642] in view of Nelson [US 6823184].

As per claims 1, 16 Sakayori disclose:

A communications device (Abstract) comprising:

A wireless (i.e. inherently wireless communication; 0265; Pg.17) and a controller for cooperating therewith for receiving text messages from a wireless communications network; (0041; Pg.3 and 0265; Pg.17) and

A headset output connected to said controller; (109; Fig.1, 0041; Pg.3)

Said controller for switching between a normal message mode and an audio message mode based upon a connection between said headset output and a headset, and when in the audio message mode, outputting at least one audio message comprising speech generated from at least one of the received text messages via said headset output. (0022; Pg.2, 0214-0215; Pg.14)

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Sakayori do not explicitly teach a cellular transceiver. However, Nelson teaches in an analogous art, that the mobile wireless cellular communications device including a cellular transceiver. (Col.5; 7-17 and Col.6; 65-67) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a cellular transceiver in order to provide a personal digital assistant for providing a conversation utterance to a remote listener in a wireless communication system.

As per claims 2, 17 Sakayori disclose:

The mobile wireless communications device of claims 1 and 16 respectively, wherein said headset output comprises a wireless headset output for establishing a wireless connection with the headset. (109; Fig.1, 0041; Pg.3)

As per claim 3 Sakayori disclose:

The mobile wireless communications device of claim 1 wherein said headset output comprises a headset jack for a wired headset. (109; Fig.1, 0041; Pg.3)

As per claims 4, 18 Sakayori disclose:

The mobile wireless communications device of claims 1 and 16 respectively, further comprising a user interface device connected to said controller, and wherein said controller switches to the audio message mode based upon an audio message mode command provided by a user via said user interface device. (0022; Pg.2, 0214-0215; Pg.14)

As per claim 5 Sakayori disclose:

The mobile wireless communications device of claim 4 wherein said user interface device comprises a keypad connected to said controller. (202; Fig.2, 0047; Pg.4)

As per claims 6, 19 Sakayori disclose:

The mobile wireless communications device of claims 1 and 16 respectively, further comprising a text-to-speech module for cooperating with said controller to convert the at least one text message to the at least one audio message. (0214-0215; Pg.14)

As per claim 7 Sakayori disclose:

The mobile wireless communications device of claim 1 further comprising a display connected to said controller for displaying the text messages. (201; Fig.2, 0047; Pg.4)

As per claim 9 Sakayori disclose:

A cellular communications system comprising at least one mobile wireless communications device (Abstract) comprising

A wireless cellular transceiver (i.e. inherently wireless communication; 0265; Pg.17) and a controller for cooperating therewith for receiving text messages, (0041; Pg.3 and 0265; Pg.17) and

A headset output connected to said controller, (109; Fig.1, 0041; Pg.3)

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Said controller for switching between a normal message mode and an audio message mode based upon a connection between said headset output and a headset, and when in the audio message mode, outputting at least one audio message comprising speech generated from at least one of the received text messages via said headset output; (0022; Pg.2, 0214-0215; Pg.14) and

A wireless cellular communications network (i.e. wireless communication; 0265; Pg.17) for sending the text messages to said at least one mobile wireless communications device. (0041; Pg.3 and 0265; Pg.17)

As per claim 10 Sakayori disclose:

The communications system of claim 9 wherein said headset output comprises a wireless headset output for establishing a wireless connection with the headset. (109; Fig.1, 0041; Pg.3)

As per claim 11 Sakayori disclose:

The communications system of claim 9 wherein said at least one wireless communications device further comprises a user interface device, and wherein said controller switches to the audio message mode based upon an audio message mode command provided by a user via said user interface device. (0214-0215; Pg.14)

As per claim 12 Sakayori disclose:

The communications system of claim 9 wherein said at least one wireless communications device further comprises a text-to-speech module for cooperating with said controller to convert the at least one text message to the at least one audio message. (0022; Pg.2,

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0214-0215; Pg.14)

As per claim 13 Sakayori disclose:

The communications system of claim 9 wherein said controller is also for generating a conversion request for the at least one text message and cooperating with the wireless transceiver to forward the conversion request to said wireless cellular communications network; and wherein said wireless communications network receives the conversion request and further comprises a text-to-speech module for converting the at least one text message to the at least one audio message, and wherein said wireless communications network sends the at least one audio message to said at least one wireless communications device. (0214-0215; Pg.14)

As per claim 14 Sakayori disclose:

The communications system of claim 9 wherein said at least one mobile wireless communications device further comprises a display connected to said controller for displaying the text messages. (201; Fig.2, 0047; Pg.4)

As per claim 20 Sakayori disclose:

A computer-readable medium (0297; Pg.19) for use with a communications device comprising a headset output, the computer-readable medium having computer-executable instructions for causing the communications device (Abstract) to perform steps comprising:

Receiving text messages from a wireless communications network (i.e. inherently wireless communication; 0265; Pg.17); switching between a normal message mode and an audio



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message mode based upon a connection between the headset output and a headset; (0214-0215; Pg.14) and

When in the audio message mode, outputting at least one audio message comprising speech generated from at least one received text message via the headset output. (0022; Pg.2, 0214-0215; Pg.14)

Sakayori do not explicitly teach a cellular transceiver. However, Nelson teaches in an analogous art, that the mobile wireless cellular communications device including a cellular transceiver. (Col.5; 7-17 and Col.6; 65-67) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a cellular transceiver in order to provide a personal digital assistant for providing a conversation utterance to a remote listener in a wireless communication system.

As per claim 21 Sakayori disclose:

The computer-readable medium of claim 20 wherein the headset output comprises a wireless headset output for establishing a wireless connection with the headset. (109; Fig.1, 0041; Pg.3)

As per claim 22 Sakayori disclose:

The computer-readable medium of claim 20 wherein the mobile wireless communications device further comprises a user interface device connected to the controller; and further comprising computer-executable instructions for causing the mobile wireless cellular communications device to perform a step comprising switching to the audio message mode

based upon an audio message mode command provided by a user via the user interface device.  
(0214-0215; Pg.14)

As per claim 23 Sakayori disclose:

The computer-readable medium of claim 20 further comprising computer-executable instructions for causing the mobile wireless communications device to perform a step of converting the at least one text message to the at least one audio message prior to outputting.  
(0214-0215; Pg.14)

***Response to Amendments & Arguments***

VII. ***Applicant's arguments filed on 2/14/2006 have been fully considered but they are not persuasive.***

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Nelson teaches a technique for a user to conducts a telephone conversation without speaking (Please perceive Abstract, Col.5; 7-17 and Col.6; 65-67 and Claim 1) by assigning a personal digital assistant provides an ***audible*** utterance to a remote listener. The

personal digital assistant comprises a display and a device for providing a conversation representation associated with a conversation element. A memory stores a conversation element associated with the conversation representation. The conversation element has an internal representation of an *audible* utterance. A processor is coupled to the display, the device and the memory. The processor generates a control signal response to a device signal. An *audio* output coupled to the processor and the memory provides the *audible* utterance responsive to the control signal and the conversation element, which is in the same field of endeavor as Sakayori, since Sakayori allowing a user to operate the device and receive the information, *audibly*. (Please perceive 0214-0215; Pg.14). Therefore, one skill in the art would recognize the combination of the above two references is proper.

Hence, it is believed that Sakayori *still teaches the claimed limitations*.

For that reason, it is believed and as enlighten above, the rejections should be sustained.

### ***Conclusion***

VIII. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

IX. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or [EBC@uspto.gov](mailto:EBC@uspto.gov).

Sharad Rampuria  
Examiner  
Art Unit 2617

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER